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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 15TH DAY OF APRIL 1998

BEFORE

THE HON'BLE MR. JUSTICE H. RANGAVITTALACHAR

HRRP NO. 470 of 1998

Between :

Sri. Venkanna Kampli  
s/o. Yamunappa, age: 61 years,  
Proprietor: Bharat Studio,  
Hampi Road, Hospet,  
Bellary District. .. Petitioner

(By Sri. G. Shanthappa - Adv.)

And :-

Sri. Shaik Sha Vali Sab,  
s/o. late Hussain Sab,  
age: 46 years, Muslim,  
Cycle Repairer, Daffedar Galli,  
r/o. Hospet, Bellary District. .. Respondent

(By Sri K. Manik Prabhu - Adv.)

This HRRP is filed under Sec. 115 of CPC against the order dtd. 10.2.1998 passed in HRC RP No. 8/96 on the file of the Addl. Dist. Judge, Bellary, dismissing the revision petition and confirming the order passed in HRC No. 1/92, dtd. 4.1.96 by the P. Munsiff, Hospet, allowing the petition filed u/s 21(1)(h) of KRC Act-

This HRRP coming on for admission this day, the Court made the following:

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O R D E R..

ORDER

Landlord/respondent filed an eviction petition on the ground that at present he is staying in a mud house having an area of about 10 ft. by 11 ft. Besides the landlord and his son are unemployed persons. They intend to run a cycle shop to eke out their livelihood, other than the schedule premises, they do not have any other premises. The schedule premises which measures about 12 ft. by 6 ft is a shop in the front and a residence in the hind portion. It is therefore ideally fit both for residence aswellas for doing the business in cycle shop, therefore the same is required for their own use and occupation.

2. This petition was resisted by the petitioner/tenant and the learned munsiff on appreciation of evidence led by the parties held that the requirements of the landlord is reasonable and bonafide and consequently passed an order of eviction. Aggrieved by the same, tenant/petiitoner filed a Rent Revision before the learned Dist.Judge, Bellary.

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Learned Dist.Judge after reappraising the evidence concurred with the findings of the learned Munsiff and dismissed the petition.

3. These two orders have been challenged by the tenant in this petition.

4. The only contention raised by the learned counsel appearing for the petitioner/tenant is that both the Courts have not properly appreciated the evidence.

5. The jurisdiction of this Court under Sec.115 is limited only to examine whether the Courts below have committed any material irregularity or have failed to exercise the jurisdiction vested in it. This Court cannot reappraise the evidence in exercise of its power under Sec.115 of CPC.

6. There is no merit in this petition. Petition is rejected.

7. However at this stage, learned counsel appearing for the tenant submitted that his client is running a photo studio in the front portion of the schedule premises and making

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use of the hind portion for his residence and that is the only source of his livelihood. Since it is difficult to get a suitable, alternative accommodation in a city like Bellary, he prayed that the tenant be granted 3 years time from today to quit and deliver vacant possession of the premises.

8. Landlord has entered caveat and is represented by a counsel Sri.Manik Prabhu who opposed grant of any time beyond one year.

9. Having regard to the facts and circumstances of the case and in the interest of justice, one and a half years time is granted to the tenant from today to quit and deliver vacant possession of the premises to the landlord subject to the following conditions:

(a) that the tenant shall file an affidavit undertaking to voluntarily vacate the premises on or before the expiry of one and a half years period from today. The said affidavit shall be filed within a period of 2 weeks from today after having served a copy thereof on the landlord's counsel.

(b) that the tenant shall pay the rents as and when it falls due without any default.

(c) that the tenant shall not sublet or sublease the premises.

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Petition rejected.

Sd/-  
JUDGE

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